

## **Appendix 1**

### **Consultation on changes to Bus Registration in Scotland**

#### **Introduction**

1. The Scottish Government's policy on bus services is based on a partnership approach, bringing together local authorities, regional transport partnerships (RTPs) and bus operators to provide good public transport services to meet users' needs in a cost effective fashion.
2. The basis for this partnership is a regulated competitive market, which combines market forces and commercial expertise with public intervention in the form of financial support, the provision of infrastructure and information and regulation in the interests of safety, accessibility, the environment, competition and consumer protection.
3. All bus services – commercial or otherwise – benefit from Bus Service Operators Grant, a subsidy paid on the basis of distance which aims to support the overall network, keep fares lower than they would otherwise be and encourage good environmental practice. Local bus services are covered by the National Bus Concessionary Travel Scheme, which offers free travel for eligible card holders over 60 or with disabilities. For this, operators are reimbursed on the basis of an agreed formula designed to leave them no better or worse off.
4. Most bus services in Scotland are provided on commercial basis. However, it is recognised that in many areas there are social needs for public transport which would not be met without further intervention. Powers exist for local authorities or in some cases RTPs (for convenience collectively referred to in this document as "local transport authorities") to support the provision of services to meet these needs where the commercial market alone will not do so. Around 19% of services in Scotland, particularly in less populated areas, are provided on this basis.
5. Local transport authorities have additional powers to intervene where the market is not delivering the outcomes sought, including through quality partnerships, quality contracts and multi-operator ticketing schemes. It is noteworthy however that apart from some voluntary and statutory quality partnerships, especially in the Strathclyde Partnership for Transport (SPT) area, these powers have been little used since their introduction in 2001.
6. In general, the Scottish Government (SG) believes that this mixed approach provides an efficient and effective way of providing bus services. Data from Scottish Household Survey continues to suggest generally high levels of satisfaction with services (at least 75%). It is noteworthy that the two Scottish operators covered, for the first time, in the most recent bus users survey carried out by Passenger Focus scored highly in terms of both overall customer satisfaction and value for money.
7. But although the bus service registration system in Scotland generally works well there is room for improvement. This consultation is the first of what is expected to be a series arising from work being carried out by Transport Scotland and the national Bus Stakeholders Group (BSG). Other matters under examination include enabling local transport authorities and operators to agree where appropriate a limited number of dates on which service changes would take effect and improving the rules governing statutory quality contracts and quality partnerships.
8. This consultation proposes a number of changes to the bus service registration process. They are designed to work with the grain of the SG's preferred market-based partnership approach by promoting changes in the relationship between bus operators and local

transport authorities, allowing both parties opportunities to work together to provide a reliable, affordable and stable bus network to passengers throughout Scotland.

9. In the light of the responses to this consultation, Transport Scotland will proceed to develop and implement regulations and guidance in consultation with the BSG.

## **Background**

10. In 2011 the Competition Commission produced a [Report](#) into the local bus services market in the United Kingdom (excluding London and Northern Ireland). The Report identified weaknesses in the level of competition in the market and recommended a number of remedies, but did not recommend radical changes to the present overall approach.

11. Separately, concerns have been raised on a number of occasions in recent years about sudden alterations or reductions to bus services. In some instances, there appears to be little or no dialogue between bus operators and local transport authorities to work out how best to deal with such changes. While both parties have differing purposes – bus operators to make a return for their shareholders and local transport authorities to obtain a sustainable bus network in their area – they share an interest in providing reliable bus services that efficiently meet the needs of their users.

12. In 2012, the Minister for Transport and Veterans established the BSG, which brings together a range of private and public sector partners including the Confederation of Passenger Transport (CPT), Bus Users Scotland (BUS), the Mobility and Access Committee Scotland (MACS), the Traffic Commissioner for Scotland, the Association of Transport Coordinating Officers (ATCO), local authorities and RTPs. The Group was asked to consider opportunities for changes to bus policy that would enable positive change for bus users.

13. As part of this work the BSG set up a Working Group to consider changes to the bus registration process as this was considered to be the area that offered the best chance of early progress to improve services and is within the legislative competence of the Scottish Parliament. The group considered a range of suggestions, including proposals from the Traffic Commissioner for Scotland, CPT Scotland and SPT (the “Ten Point Plan”), and these proposals arose from its discussion.

14. A number of other proposals are being considered by the BSG and are likely to give rise to further consultation exercises in the coming months.

## **Topic of Consultation**

15. At present, if a bus operator wishes to operate a new bus route, or change or discontinue an existing route, they are obliged to notify the relevant authorities (any local authorities, as well as SPT, in whose areas the service stops or will stop) 14 days before submitting the application for registration with the Traffic Commissioner. With limited exceptions, the new services – or changes – can be implemented 56 days after registration.

16. The changes proposed in this consultation seek to encourage and facilitate greater collaboration between bus operators and the relevant authorities in planning and implementing changes to bus services at the local level. It is anticipated that this could help reduce or mitigate problems before they arise, and contribute towards greater stability in the bus network.

17. The changes under consideration include:-

- Extending the period for notifying relevant authorities in advance of registration from 14 to 28 days.
- Strengthening the requirement on bus operators to consult rather than simply notify the relevant authorities.
- Encouraging the relevant authorities where appropriate to draw concerns arising out of registrations to the attention of the Traffic Commissioner and/or Transport Scotland.
- Reducing the registration period from 56 to 42 days – either for all registrations or for those submitted electronically – in order to maintain the overall time taken for the whole process from initial notification to the start of the service at 70 days.

18. The options proposed are set out more fully below.

## **Scope of consultation.**

### **Proposals under consideration**

#### **Question 1: Do you agree with the proposal to extend the pre-registration notice period from 14 days to 28 days ?**

19. At present, bus operators are obliged to inform relevant authorities 14 days before making an application to register (or vary or cancel) a service route with the Traffic Commissioner for Scotland. Once this period has elapsed and the operator has provided sufficient evidence to satisfy the Traffic Commissioner for Scotland that they have complied with their duty to notify the relevant authorities, the operator can then proceed to registration.

20. The proposed change is designed to allow improved dialogue between the relevant authorities and bus operators in the run up to service changes. Both parties could use the greater period of notice of proposed changes for meaningful discussion and to plan accordingly. For example, the relevant authorities might consider offering to support routes that may otherwise be scheduled to close on financial grounds or suggest possible amendments to proposals in order to mitigate the effects of planned service reductions or changes.

#### **Question 2: Do you agree with the proposal to replace the duty to inform the relevant authorities before making an application for registration with a duty to consult with the relevant authorities?**

21. Currently, bus operators are required to evidence to the Traffic Commissioner that they have made the appropriate notification to the relevant authorities. In practice, the operator notifies the relevant authorities who acknowledge receipt and the application is then forwarded to the Traffic Commissioner.

22. This proposal, in tandem with the extended notice period set out above, seeks to encourage a collaborative approach between bus operators and the relevant authorities to determine how proposed new routes or changes to existing routes might best be implemented to the benefit of bus users.

23. It is important to note that the requirement on the operator would be to consult the relevant authorities. It is not considered practicable to require general public consultation on all registration changes, although good practice would be for operators and relevant

authorities to engage with user representatives where possible on specific changes and for there to be a continuing public engagement which informs decision making on service changes.

24. It should also be noted that the proposed requirement would be to consult rather than agree. If the consultation requirement had been complied with, an operator could ultimately still register changes which the relevant authorities opposed.

25. It is envisaged that the statutory obligation would be supported by guidance as to how consultation might be undertaken.

**Question 3: Do you agree that relevant authorities should be encouraged through guidance to draw potential concerns about new registrations to the attention of the Traffic Commissioner for Scotland and/or Transport Scotland?**

26. The Scottish Government considers that in some circumstances it may be helpful for relevant authorities to draw to the attention of Traffic Commissioner and/or Transport Scotland concerns relating to service changes which might provide the Commissioner with information which could help her in the exercise of her wider powers or identify issues with the operation of national bus service regulation or funding which could inform the development of bus services policy.

**Question 4a: Do you agree with the proposal to reduce the period of registration from 56 days to 42 days? What difficulties if any do you consider such a change might present and how might these be addressed?**

27. A concern with extending the pre-registration notice period by 14 days is that this could delay the implementation of desirable service changes. In order to avoid this, the timetable for the registration process itself could be reduced by 14 days, to 42 days, preserving the overall timetable from notification to service change at 70 days. A possible concern which has been raised in this context, however, is that the 42 day period might present difficulties in the provision of passenger information such as timetables in advance of the changes taking effect.

**Question 4b: An alternative option would be to reduce the registration period from 56 days to 42 days only where Electronic Bus Service Registration (EBSR) is used. Do you agree with this?**

28. If a general reduction to 42 days proves impracticable, an alternative option is to reduce the registration period to 42 days for electronic registrations only. This would have the additional benefit of incentivising take up of EBSR. The present 56 day period for non-electronic registrations would remain the same.

**Question 5: Do you agree that we should require operators to detail within registered hourly frequency bands any services that are registered as frequent services?**

29. In 2011 the Competition Commission's Local Bus Services Market Investigation recommended that the Scottish Government make changes to local bus services legislation to remove an incentive for bus operators to compete in ways that can lead to a rival's exit rather through ongoing competition on the merits of their respective offerings.

30. Existing rules for registering 'frequent services' (i.e. those that run 6 or more times per hour), simply require a statement of the fact that the service interval is 10 minutes or less. This could allow operators to increase the frequency of buses in response to a competitor's entrance to the market without having to make an application to the Traffic Commissioner.

The proposal would be to require frequencies for 'frequent services' to be more precisely detailed in service registrations, in effect limiting how often and quickly service frequencies could be altered since services are required to be operated as registered.

**Question 6: Do you consider that if the proposed changes set out above are adopted, they would improve the bus registration process in Scotland ?**

31. In your view, will the changes proposed improve bus service management, allow for greater engagement between bus service operators and local transport authorities and increase the stability of the bus service network in Scotland? Or do you believe that they may have consequences other than those stated above? If so, please set these out.

**Question 7: It is possible that much of what is proposed above could be achieved through Guidance and/or a Code of Conduct to facilitate engagement between operators and relevant authorities rather than changes to the legislation. Do you have any views on this?**

32. The proposals in Questions 1, 2, 4 and 5 would make limited changes to the legislation which it is envisaged would be backed up with guidance for parties to follow. The intention would be to give an impetus and create room for bus operators and the relevant authorities to work better together rather than to prescribe a rigid sequence of steps to be undertaken. To what extent do you consider this would be better accomplished through the provision of guidance to be followed by the parties rather than by legislation?

33. The Scottish Government would welcome the views of all interested parties on the above proposals.

## **A Business and Regulatory Impact Assessment (BRIA)**

A partial BRIA has been prepared for this consultation. A full BRIA will be made available along with a summary of any responses that can be made open to the public.

### **Geographical extent of consultation**

This consultation applies in Scotland only as bus registration is a devolved matter. The UK Government Department for Transport undertook their own [Consultation](#) on bus registration for England and Wales between 11 March and 6 May 2014.

### **Audience**

Anyone may respond to this consultation. The Scottish Government would like to hear from anyone with an interest, including bus service operators, local transport authorities, regional transport partnerships, passenger representative organisations and interested members of the public.

### **Body responsible for this consultation**

Transport Scotland Bus and Local Transport Policy Branch are responsible for bus policy and this consultation.

### **Duration**

- This consultation started on 1 August 2014
- This consultation closes on 24 October 2014
- A consultation period of 12 weeks applies

### **How to make an enquiry**

If you have any queries relating to this consultation please contact Andrew Stevenson on 0131 244 0781 or Allan Crawford on 0131 244 0840.

### **The Scottish Government Consultation Process**

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper

and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (V Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: Scottish Government consultations (<http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

### **Responding to this consultation paper**

We are inviting responses to this consultation paper by 24 October 2014. You should send your completed Respondent Information Form (see "Handling your Response" below) to: [BusRegistrationConsultation@transportscotland.gsi.gov.uk](mailto:BusRegistrationConsultation@transportscotland.gsi.gov.uk)

Or to:

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## **Handling your response**

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## **Next steps in the process**

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library (see the attached Respondent Information Form) in due course. You can make arrangements to view responses by contacting the Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

## **What happens next?**

Following the closing date, all responses will be analysed and considered along with any other available evidence. This information will be used to advise Scottish Ministers of the views of stakeholders affected by the proposal. A summary of the responses will be published within 12 weeks of closure of the consultation on the Scottish Government's website at:

<http://www.scotland.gov.uk/Publications/Recent>

## **Comments and complaints**

An opportunity to provide comments on your experience of the consultation is provided as part of the consultation survey/questionnaire. Alternatively you may also send any comments that you may have about how this consultation exercise has been conducted to the contact details in the - Responding to this consultation section.